

**UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK**

ENVIRONMENTAL DEFENSE FUND,)	
)	
)	
)	
Plaintiff,)	No. 11 Civ. 04492 (KBF)
)	ECF CASE
v.)	
)	
GINA McCARTHY, Administrator, United)	
States Environmental Protection Agency, in)	
her official capacity,)	
)	
Defendant.)	
)	
)	
)	

NOTICE OF STIPULATION

Paragraph 5 of the Consent Decree entered into by the parties provides that the deadlines established by the Consent Decree may be modified by “written stipulation of Plaintiff and EPA with notice to the Court.” Consent Decree, ¶ 5 (Dkt. No. 27).

Pursuant to Paragraph 5, defendant Gina McCarthy, Administrator of the United States Environmental Protection Agency (“EPA”), hereby provides notice of modification of deadlines in the Consent Decree, by attaching the written stipulation of Plaintiff and EPA hereto, as Exhibit A.

Dated: New York, New York
May 29, 2014

Respectfully submitted,

PREET BHARARA
United States Attorney for the
Southern District of New York
Attorney for Defendant EPA

By: /s/ Louis A. Pellegrino
LOUIS A. PELLEGRINO
Assistant United States Attorney
86 Chambers Street, Third Floor
New York, New York 10007
Telephone: (212) 637-2689

Exhibit A

**STIPULATION TO MODIFY CONSENT DECREE BETWEEN THE
ENVIRONMENTAL PROTECTION AGENCY AND PLAINTIFF IN
ENVIRONMENTAL DEFENSE FUND v. GINA McCARTHY, 11 CIV. 4492
(KBF) (SDNY)**

WHEREAS, on September 28, 2012, the Environmental Protection Agency (“EPA”) entered into a Consent Decree (the “Consent Decree”) (Doc. 27) with the Environmental Defense Fund (“EDF”) – plaintiff in *Environmental Defense Fund v. McCarthy*, 11 Civ. 4492 (KBF) (S.D.N.Y.) – concerning EPA’s issuance of rules regarding new source performance standards for municipal solid waste landfills under section 111(b) of the Clean Air Act (“CAA”), 42 U.S.C. § 7411(b)(1)(B);

WHEREAS, pursuant to Paragraph 2(a) of the Consent Decree, EPA agreed:

No later than May 1, 2013, EPA shall: (i) perform an appropriate review and sign for publication one or a combination of the following: (A) a proposed rule containing revisions to the MSW Landfills NSPS, 40 C.F.R. Part 60, Subpart WWW (“NSPS Subpart WWW”), under CAA section 111(b)(1)(B), 42 U.S.C. § 7411(b)(1)(B); or (B) a proposed determination under CAA section 111(b)(1)(B) not to revise NSPS Subpart WWW; or (ii) sign for publication a determination that “review is not appropriate in light of readily available information on the efficacy of [the] standard,” i.e., NSPS Subpart WWW;

WHEREAS, pursuant to Paragraph 2(b) of the Consent Decree, EPA agreed:

If EPA signs a proposed rule or a proposed determination pursuant to paragraph 2.a(i) above, then no later than May 1, 2014, EPA shall sign one or a combination of the following: (i) a final rule containing revisions to NSPS Subpart WWW under CAA section 111(b)(1)(B), 42 U.S.C. § 7411(b)(1)(B), based on an appropriate review; or (ii) a final determination under CAA section 111(b)(1)(B) not to revise NSPS Subpart WWW, based on an appropriate review;

WHEREAS, Paragraph 5 of the Consent Decree provides that the deadlines established by the Consent Decree may be modified by written stipulation of Plaintiff and EPA with notice to the Court;

WHEREAS, on April 29, 2013 (Doc. 31), the parties agreed to modify the deadline to perform the actions described in Paragraph 2.a to February 4, 2014, and agreed to modify the deadline to perform the actions described in Paragraph 2.b to December 17, 2014;

WHEREAS, on January 30, 2014 (Doc. 37), the parties agreed to modify the deadline to perform the actions described in Paragraph 2.a to May 29, 2014;

WHEREAS, EPA has requested, and EDF has consented, to modify the date on or before which EPA is to take the actions specified in Paragraph 2.a of the Consent Decree, by extending that date to June 30, 2014, and to modify the date on or before which EPA is to take the actions specified in Paragraph 2.b of the Consent Decree, by extending that date to March 30, 2015, and the parties hereby submit this stipulation to so notify the Court;

NOW, THEREFORE, EPA and EDF, intending to be bound by this modification to the Consent Decree, hereby stipulate and agree as follows:

1. The deadline to perform the actions described in Paragraph 2.a of the Consent Decree (Doc. 27) is amended to June 30, 2014.
2. The deadline to perform the actions described in Paragraph 2.b of the Consent Decree (Doc. 27) is amended to March 30, 2015.

FOR EPA:

Dated: New York, NY
May 28, 2014

PREET BHARARA
United States Attorney
Southern District of New York
Attorney for U.S. EPA

By: /s/ Louis A. Pellegrino
LOUIS A. PELLEGRINO
Assistant United States Attorney
86 Chambers Street, Third Floor
New York, NY 10007
(212) 637-2689

FOR EDF:

Dated: Washington, D.C.
May 28, 2014

By: /s/ Emma C. Cheuse
EMMA C. CHEUSE
SETH L. JOHNSON
EARTHJUSTICE
1625 Massachusetts Avenue, N.W.,
Suite 702
Washington, D.C. 20036
Tel: (202) 667-4500
echeuse@earthjustice.org
sjohnson@earthjustice.org

DEBORAH GOLDBERG
EARTHJUSTICE
48 Wall Street, 19th Floor
New York, NY 10005
Tel: (212) 845-7376
dgoldberg@earthjustice.org

ELIZABETH DELONE PARANHOS
DELONE LAW, INC.
1555 Jennine Place
Boulder, CO 80304
Tel: (303) 880-4285
elizabethparanhos@delonelaw.com

*Attorneys for Plaintiff Environmental
Defense Fund*